

**AMENDMENT IN THE NATURE OF A SUBSTITUTE  
TO H.R. 7023  
OFFERED BY MR. ROUZER OF NORTH CAROLINA**

Strike all after the enacting clause and insert the following:

**1 SECTION 1. SHORT TITLE.**

2 This Act may be cited as the “Creating Confidence  
3 in Clean Water Permitting Act”.

**4 SEC. 2. WATER QUALITY CRITERIA DEVELOPMENT AND  
5 TRANSPARENCY.**

6 (a) INFORMATION AND GUIDELINES.—Section  
7 304(a) of the Federal Water Pollution Control Act (33  
8 U.S.C. 1314(a)) is amended by adding at the end the fol-  
9 lowing:

10 “(10) ADMINISTRATIVE PROCEDURE.—After  
11 the date of enactment of this paragraph, the Admin-  
12 istrator shall issue any new or revised water quality  
13 criteria under paragraph (1) or (9) by rule.”.

14 (b) ADMINISTRATIVE PROCEDURE AND JUDICIAL  
15 REVIEW.—Section 509(b)(1) of the Federal Water Pollu-  
16 tion Control Act (33 U.S.C. 1369(b)(1)) is amended—

17 (1) by striking “section 402, and” and inserting  
18 “section 402,”; and

1           (2) by inserting “and (H) in issuing any cri-  
2           teria for water quality pursuant to section  
3           304(a)(10),” after “strategy under section 304(l),”.

4 **SEC. 3. CONFIDENCE IN CLEAN WATER PERMITS.**

5           (a) COMPLIANCE WITH PERMITS.—Section 402(k) of  
6 the Federal Water Pollution Control Act (33 U.S.C.  
7 1342(k)) is amended—

8           (1) by striking “(k) Compliance with” and in-  
9           serting the following:

10          “(k) COMPLIANCE WITH PERMITS.—

11           “(1) IN GENERAL.—Subject to paragraph (2),  
12          compliance with”; and

13           (2) by adding at the end the following:

14           “(2) SCOPE.—For purposes of paragraph (1),  
15          compliance with the conditions of a permit issued  
16          under this section shall be considered compliance  
17          with respect to a discharge of—

18           “(A) any pollutant for which an effluent  
19          limitation is included in the permit; and

20           “(B) any pollutant for which an effluent  
21          limitation is not included in the permit that  
22          is—

23           “(i) specifically identified as controlled  
24          or monitored through indicator parameters  
25          in the permit, the fact sheet for the per-

1 mit, or the administrative record relating  
2 to the permit;

3 “(ii) specifically identified during the  
4 permit application process as present in  
5 discharges to which the permit will apply;  
6 or

7 “(iii) whether or not specifically iden-  
8 tified in the permit or during the permit  
9 application process—

10 “(I) present in any waste  
11 streams or processes of the point  
12 source to which the permit applies,  
13 which waste streams or processes are  
14 specifically identified during the per-  
15 mit application process; or

16 “(II) otherwise within the scope  
17 of any operations of the point source  
18 to which the permit applies, which  
19 scope of operations is specifically iden-  
20 tified during the permit application  
21 process.”.

22 (b) EXPRESSION OF WATER QUALITY-BASED EFFLU-  
23 ENT LIMITATIONS.—Section 402 of the Federal Water  
24 Pollution Control Act (33 U.S.C. 1342) is amended by  
25 adding at the end the following:

1           “(t) EXPRESSION OF WATER QUALITY-BASED EF-  
2 FLUENT LIMITATIONS.—If the Administrator (or a State,  
3 in the case of a permit program approved by the Adminis-  
4 trator) determines that a water quality-based limitation  
5 on a discharge of a pollutant is necessary to include in  
6 a permit under this section in addition to any appropriate  
7 technology-based effluent limitations included in such per-  
8 mit, the Administrator (or the State) may include such  
9 water quality-based limitation in such permit only in the  
10 form of an effluent limitation that specifies—

11                   “(1) the pollutant to which it applies; and

12                   “(2) the numerical limit on the discharge of  
13 such pollutant, or the precise waterbody conditions  
14 to be attained with respect to such pollutant, re-  
15 quired to comply with the permit.”.

16 **SEC. 4. REDUCING PERMITTING UNCERTAINTY.**

17           (a) IN GENERAL.—Section 404(c) of the Federal  
18 Water Pollution Control Act (33 U.S.C. 1344(c)) is  
19 amended—

20                   (1) by striking “(c) The Administrator” and in-  
21 serting the following:

22                   “(c) SPECIFICATION OR USE OF DEFINED AREA.—

23                           “(1) IN GENERAL.—The Administrator”;

24                           (2) in paragraph (1), as so designated, by in-  
25 serting “during the period described in paragraph

1 (2) and” before “after notice and opportunity for  
2 public hearings”; and

3 (3) by adding at the end the following:

4 “(2) PERIOD OF PROHIBITION.—The period  
5 during which the Administrator may prohibit the  
6 specification (including the withdrawal of specifica-  
7 tion) of any defined area as a disposal site, or deny  
8 or restrict the use of any defined area for specifica-  
9 tion (including the withdrawal of specification) as a  
10 disposal site, under paragraph (1) shall—

11 “(A) begin on the date on which an appli-  
12 cant submits all the information required to  
13 complete an application for a permit under this  
14 section; and

15 “(B) end on the date on which the Sec-  
16 retary issues the permit.”.

17 (b) APPLICABILITY.—The amendments made by sub-  
18 section (a) shall apply to a permit application submitted  
19 under section 404 of the Federal Water Pollution Control  
20 Act (33 U.S.C. 1344) after the date of enactment of this  
21 Act.

22 **SEC. 5. NATIONWIDE PERMITTING IMPROVEMENT.**

23 (a) IN GENERAL.—Section 404(e) of the Federal  
24 Water Pollution Control Act (33 U.S.C. 1344) is amend-  
25 ed—

1 (1) by striking “(e)(1) In carrying” and insert-  
2 ing the following:

3 “(e) GENERAL PERMITS ON STATE, REGIONAL, OR  
4 NATIONWIDE BASIS.—

5 “(1) PERMITS AUTHORIZED.—In carrying”;

6 (2) in paragraph (2)—

7 (A) by striking “(2) No general” and in-  
8 serting the following:

9 “(2) TERM.—No general”; and

10 (B) by striking “five years” and inserting  
11 “ten years”; and

12 (3) by adding at the end the following:

13 “(3) CONSIDERATIONS.—In determining the en-  
14 vironmental effects of an activity under paragraph  
15 (1) or (2), the Secretary shall consider only the ef-  
16 fects of any discharge of dredged or fill material re-  
17 sulting from such activity.

18 “(4) NATIONWIDE PERMITS FOR LINEAR INFRA-  
19 STRUCTURE PROJECTS.—

20 “(A) IN GENERAL.—Notwithstanding any  
21 other provision of this section, the Secretary  
22 shall maintain general permits on a nationwide  
23 basis for linear infrastructure projects that do  
24 not result in the loss of greater than 1/2-acre  
25 of waters of the United States for each single

1 and complete project (as defined in section  
2 330.2 of title 33, Code of Federal Regulations  
3 (as in effect on the date of enactment of this  
4 paragraph)).

5 “(B) DEFINITION OF LINEAR INFRASTRUC-  
6 TURE PROJECT.—In this paragraph, the term  
7 ‘linear infrastructure project’ means a project  
8 to carry out any activity required for the con-  
9 struction, expansion, maintenance, modification,  
10 or removal of infrastructure and associated fa-  
11 cility for the transmission from a point of origin  
12 to a terminal point of communications or elec-  
13 tricity or the transportation from a point of ori-  
14 gin to a terminal point of people, water, waste-  
15 water, carbon dioxide, or fuel or hydrocarbons  
16 (in the form of a liquid, liquescent, gaseous, or  
17 slurry substance or supercritical fluid), includ-  
18 ing oil and gas pipeline facilities.

19 “(5) REISSUANCE OF NATIONWIDE PERMITS.—  
20 In determining whether to reissue a general permit  
21 issued under this subsection on a nationwide basis—

22 “(A) no consultation with an applicable  
23 State pursuant to section 6(a) of the Endan-  
24 gered Species Act of 1973 (16 U.S.C. 1535(a))  
25 is required;

1 “(B) no consultation with a Federal agen-  
2 cy pursuant to section 7(a)(2) of such Act (16  
3 U.S.C. 1536(a)(2)) is required; and

4 “(C) the requirements of section 102(2)(C)  
5 of the National Environmental Policy Act of  
6 1969 (42 U.S.C. 4332(2)(C)) shall be satisfied  
7 by preparing an environmental assessment with  
8 respect to such general permit.”.

9 (b) ADMINISTRATION OF NATIONWIDE PERMIT PRO-  
10 GRAM.—In carrying out section 404(e) of the Federal  
11 Water Pollution Control Act (33 U.S.C. 1344), the Sec-  
12 retary of the Army, acting through the Chief of Engineers,  
13 may not finalize or implement any modification to—

14 (1) general condition 15 (relating to single and  
15 complete projects), as included in the final rule titled  
16 “Reissuance and Modification of Nationwide Per-  
17 mits” and published on January 13, 2021, by the  
18 Department of the Army, Corps of Engineers (86  
19 Fed. Reg. 2868);

20 (2) the definition of single and complete linear  
21 project, as included in such final rule (86 Fed. Reg.  
22 2877); or

23 (3) the definition of single and complete  
24 project, as included in section 330.2 of title 33, Code

1 of Federal Regulations (as in effect on the date of  
2 enactment of this Act).

3 **SEC. 6. JUDICIAL REVIEW TIMELINE CLARITY.**

4 Section 404 of the Federal Water Pollution Control  
5 Act (33 U.S.C. 1344) is amended—

6 (1) by redesignating subsection (t) as sub-  
7 section (u);

8 (2) in subsection (u), as so redesignated, by  
9 striking “Nothing in the section” and inserting  
10 “SAVINGS PROVISION.—Nothing in this section”;  
11 and

12 (3) by inserting after subsection (s) the fol-  
13 lowing:

14 “(t) JUDICIAL REVIEW.—

15 “(1) STATUTE OF LIMITATIONS.—

16 “(A) IN GENERAL.—Notwithstanding any  
17 applicable provision of law relating to statutes  
18 of limitations, an action seeking judicial review  
19 of—

20 “(i) an individual or general permit  
21 issued under this section shall be filed not  
22 later than the date that is 60 days after  
23 the date on which the permit was issued;  
24 and

1           “(ii) verification that an activity is au-  
2           thorized by a general permit issued under  
3           this section shall be filed not later than the  
4           date that is 60 days after the date on  
5           which such verification was issued.

6           “(B) SAVINGS PROVISION.—Nothing in  
7           subparagraph (A) may be construed to author-  
8           ize an action seeking judicial review of the  
9           structure of, or authorization for, a State per-  
10          mit program approved pursuant to this section.

11          “(2) REMEDY.—If a court determines that the  
12          Secretary or the State, as applicable, did not comply  
13          with the requirements of this section in issuing an  
14          individual or general permit under this section, or in  
15          verifying that an activity is authorized by a general  
16          permit issued under this section, as applicable—

17                 “(A) the court shall remand the matter to  
18                 the Secretary or the State, as applicable, for  
19                 further proceedings consistent with the court’s  
20                 determination;

21                 “(B) with respect to a determination re-  
22                 garding the issuance of an individual or general  
23                 permit under this section, the court may not va-  
24                 cate, revoke, enjoin, or otherwise limit the per-  
25                 mit, unless the court finds that activities au-

1           thorized under the permit would present an im-  
2           minent and substantial danger to human health  
3           or the environment for which there is no other  
4           equitable remedy available under the law; and

5           “(C) with respect to a determination re-  
6           garding a verification that an activity is author-  
7           ized by a general permit issued under this sec-  
8           tion, the court may not enjoin the activity, un-  
9           less the court finds that the activity would  
10          present an imminent and substantial danger to  
11          human health or the environment for which  
12          there is no other equitable remedy available  
13          under the law.

14          “(3) TIMELINE TO ACT ON COURT ORDER.—If  
15          a court remands a matter under paragraph (2), the  
16          court shall set and enforce a reasonable schedule  
17          and deadline, which may not exceed 180 days from  
18          the date on which the court remands such matter,  
19          except as otherwise required by law, for the Sec-  
20          retary or the State, as applicable, to take such ac-  
21          tions as the court may order.”.

Amend the title so as to read: “A bill to amend the  
Federal Water Pollution Control Act to provide regu-  
latory and judicial certainty for regulated entities and

communities, increase transparency, and promote water quality, and for other purposes.”.

